



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/037,822	03/10/1998	SATORU MOTOYAMA	25484.00643	7579

25224 7590 10/02/2002

MORRISON & FOERSTER, LLP  
555 WEST FIFTH STREET  
SUITE 3500  
LOS ANGELES, CA 90013-1024

EXAMINER

WILLETT, STEPHAN F

ART UNIT	PAPER NUMBER
----------	--------------

2152

DATE MAILED: 10/02/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/037,822

Applicant(s)  
Motoyama

Examiner  
Stephan Willett

Art Unit  
2152



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Sep 3, 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 29, 33, 37, and 41-53 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 29, 33, 37, and 41-53 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other:

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 29, 33, 37, 41-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moline et al. with Patent Number 5,883,957 in view of Isozaki with Patent Number 5,999,905.
3. Regarding claims 29, 33, 37, 41-46, 49, Moline teaches a quasi-real time or streaming MIDI sound playing technique. Moline teaches receiving data over a public communications line or the Internet, col. 8, lines 63-67. Moline teaches receiving data over a public communications line or the Internet, col. 8, lines 63-67. Moline teaches receiving first time information as "MIDI file reader includes two subcomponents ... parser reads events in order from track, each event of course includes event message and elapsed time descriptor", col. 6, lines 44-48 in Moline et al. and "the amount of track that must be accumulated before receiver begins playing the track is determined by a delay parameter set by the user of receiver", Moline et al. col. 12, lines 1-3. Moline teaches subtracting a predetermined time [time stamp] from time information as "the time stamp of each event is added to the server start time and subtracted from the play time", col. 13, lines 12-14. Moline teaches storing means for temporarily storing the data received by said reception means as "MIDI stream generator keeps track of the last event that it output, the amount of time that has actually elapsed since it began playing the track, and the total amount of

time specified by the elapsed time indicators in events played thus far", see Moline et al. col. 6, lines 26-31, and "the result of this operation is an event, which is then added to stored track in memory" at col. 6, lines 53-54. Moline teaches processing means for starting the processing of the data temporarily stored in said memory when said second time information reaches the first as "output event messages until either an event is reached whose time stamp is greater", and "this incremental addition of parts", col. 7, 8, lines 15-16, 4-6, "the delay varies as the preferred embodiment waits to begin [subtracts] playing track until enough of track has accumulated", see Moline et al. col. 11, lines 59-64, "beginning at the start of stored track, the time stamp of each event is added to the server start time and subtracted from the play time", col. 13, lines 12-14 and "MIDI stream generator generates MIDI stream from stored track as follows: ... set the timer and wait for it to expire again" at col. 7, lines 10-20 in Moline et al. Moline teaches the invention in claim 1 except for explicitly teaching a second time. In that Moline operates to buffer data for quasi-real time play the artisan would have looked to the computer data streaming arts for details of buffering signals. In that art, Isozaki, a related data buffering system, teaches a chaining of data streams. Isozaki, specifically teaches "a phase difference between the above predetermined reference timing of the first source and a start point of the processing unit is reproduced", col. 5, lines 8-12. A second predetermined time is taught. The motivation to incorporate a predetermined time insures that data is properly ordered. Thus, it would have been obvious to one of ordinary skill in the art to incorporate the predetermined time as taught in Isozaki into the MIDI player described in the Moline patent because Moline operates with delay times to achieve streaming data and Isozaki suggests that streaming of data can be obtained with a predetermined time. Therefore, by the above rational, the above claim(s) are rejected.

4. Regarding claims 47, 50, 52, Isozaki teaches mixing recovery data broadly, col. 13, lines 26-35.
5. Regarding claims 48, 51 and 53, Moline teaches searching the stored data for irregularities or control messages, col. 8, lines 38-52.
6. Claims 29, 33, 37, 41-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moline et al. with Patent Number 5,883,957 in view of Shioda with patent Number 5,430,243.
7. Regarding claims 29, 33, 37, 41-46, 49, Moline teaches a quasi-real time or streaming MIDI sound playing technique. Moline teaches receiving data over a public communications line or the Internet, col. 8, lines 63-67. Moline teaches reception means for receiving data blocks, each block containing time information and chronological data which represents chronological order as "MIDI file reader includes two subcomponents ... parser reads events in order from track, each event of course includes event message and elapsed time descriptor" at col. 6, lines 44-48 in Moline et al, "the amount of track that must be accumulated before receiver begins playing the track is determined by a delay parameter set by the user of receiver" (see Moline et al. col. 12, lines 1-3) and any protocol would have chronological data. Moline teaches *storing means for temporarily storing the control data blocks received by said reception means* as "MIDI stream generator keeps track of the last event that it output, the amount of time that has actually elapsed since it began playing the track, and the total amount of time specified by the elapsed time indicators in events played thus far", (see Moline et al. col. 6, lines 26-31) and "the result of this operation is an event, which is then added to stored track in memory" at col. 6, lines 53-54. Moline teaches judging means for judging from the time information contained in the control block whether a predetermined time has passed as "the delay varies . the preferred

embodiment waits to begin [subtracts] playing track until enough of track has accumulated" (see Moline et al. col. 11, lines 59-64), "beginning at the start of stored track, the time stamp of each event is added to the server start time and subtracted from the play time", col. 13, lines 12-14 and "MIDI stream generator generates MIDI stream from stored track as follows: ... set the timer and wait for it to expire again" at col. 7, lines 10-20 in Moline et al.. Moline teaches processing means for starting the processing of the control data blocks temporarily stored in said memory in accordance with said chronological data in said control block, when said judging means judges that the predetermined time has passed as "output event messages until either an event is reached whose time stamp is greater", and "this incremental addition of parts", col. 7, 8, lines 15-16, 4-6 in Moline et al. Moline teaches the invention in claim 1 except for explicitly *teaching a predetermined time*. In that Moline operates to buffer data for quasi-real time play the artisan would have looked to the computer data streaming arts for details of buffering signals. In that art, Shioda, a related data buffering system, teaches a "basic delay time", col. 4, lines 37 in order to delay "a voice and/or musical tone produced by an electronic musical instrument", col. 4, lines 37-38. Shioda, specifically teaches that "a basic delay time-calculating routine for calculating a basic delay time based on a timing clock of a MIDI signal is started" at col. 4, lines 46-48. A timing clock is taught that is used to determine delay times. Further, Shioda suggests that "an excellent repeat effect to the performance", col. 1, lines 65-66 will result from applying the delay times. The motivation to incorporate a delay time insures that a reference time is used to accurately apply delay times. Thus, it would have been obvious to one of ordinary skill in the art to incorporate the delay time as taught in Shioda into the MIDI player described in the Moline patent because Moline operates with delay times to achieve streaming data and Shioda suggests that

streaming of data can be obtained with timers and set times. Therefore, by the above rational, the above claim(s) are rejected.

8. Regarding claims 47, 50, 52, Moline teaches mixing recovery data broadly in three forms of 1) resending information, 2) making a second buffer and 3) extrapolating information from a known signal, col. 14, lines 2-65 and at col.5, lines 59-60.

9. Regarding claims 48, 51 and 53, Moline teaches searching the stored data for irregularities or control messages, col. 8, lines 38-52.

#### ***Response to Amendment***

10. The broad claim language used is interpreted on its face and based on this interpretation the claims have been rejected.

11. The limited structure claimed, without more functional language, reads on the references provided. Thus, Applicant's arguments can not be held as persuasive regarding patentability.

12. The applicant presently seems to claim a method of simply adjusting delay and start times to achieve streaming data. The amendment was of no substantive merit in that the added limitation was addressed by Moline's teaching of receiving data over a public communications line or the Internet, col. 8, lines 63-67. It is suggested more detail is claimed into how the times are determined and what processing is done to achieve the resulting streaming data. A strait forward step by step process of applying said times to said data with a processing scenario to achieve a non-obvious named result is suggested. Thus, Applicant's arguments can not be held as persuasive regarding patentability.

***Conclusion***

13. The references cited teach numerous other ways to achieve delayed streaming media, thus a close review of them is suggested.

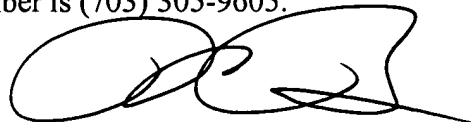
14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

15. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephan Willett whose telephone number is (703) 308-5230. The examiner can normally be reached Monday through Friday from 8:00 AM to 6:00 PM.

17. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Rinehart, can be reached on (703) 305-4815. The fax phone number for the organization where this application or proceeding is assigned is (703) 746-7239.

18. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-9605.



**MARK H. RINEHART  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100**